

## Message Text

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PAGE 01 STATE 060426  
ORIGIN NEA-10

INFO OCT-01 ISO-00 COME-00 /011 R

66011

DRAFTED BY NEA/RA:DTMORRISON

APPROVED BY NEA/RA:HPRECHT

NEA/ARP:JWINN

USDOC/CAGNE:JHEARN

-----026810 090644Z /13

R 090209Z MAR 78

FM SECSTATE WASHDC

INFO RUEHAL/AMCONSUL ALEXANDRIA 0000

AMEMBASSY AMMAN

USINT BAGHDAD

AMEMBASSY BEIRUT

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMCONSUL DHAHRAN

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY SANA

AMEMBASSY TEL AVIV

AMEMBASSY TRIPOLI

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FOL RPT ABU DHABI 0420 SENT ACTION SECSTATE & USDOC WASHDC  
DTD 14 FEB 78

QUOTE: LIMITED OFFICIAL USE ABU DHABI 0420

E.O. 11652: N/A

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TAGS: ETRD, TC

SUBJECT: ADNOC APPLICATION OF ARAB BOYCOTT REGULATIONS FOR RUWAIS  
PROJECT

REFS: (A) 77 ABU DHABI 3427, (B) ABU DHABI 0186

1. AS DEPARTMENT IS AWARE FROM REFTELS, EMBASSY HAS BEEN

ACTIVELY ENGAGED IN GETTING ABU DHABI NATIONAL OIL COMPANY TO REMOVE FROM ITS CONDITIONS OF PURCHASE THAT POTENTIAL SUPPLIERS OF GOODS AND SERVICES AGREE TO SUBMIT NEGATIVE CERTIFICATES OF ORIGIN AND OTHER STATEMENTS UNACCEPTABLE UNDER FINAL EXPORT ADMINISTRATION ACT REGULATIONS.

2. ADNOC HAS NOW ISSUED NEW SPECIAL CONDITIONS ON ARAB BOYCOTT OF ISRAEL WHICH STILL GIVES US PROBLEMS. THESE SPECIAL CONDITIONS READ AS FOLLOWS:

BEGIN QUOTE: BOYCOTT OF ISRAEL

-- A. THE GOVERNMENT OF ABU DHABI ACTING BY AND THROUGH BUYER REQUIRE THE OBSERVANCE OF THE LAWS OF ABU DHABI WITH RESPECT TO THE BOYCOTT OF ISRAEL AS FOLLOWS: -

SELLER AND ITS SUB-SUPPLIERS SHALL STRICTLY OBSERVE ALL RULES AND REGULATIONS OF THE BOYCOTT OF ISRAEL AS DETERMINED BY THE LEAGUE OF ARAB STATES. ACCORDINGLY, NO MATERIALS SHALL BE SUPPLIED WHICH HAVE BEEN MANUFACTURED BY ANY FIRM WHICH IS ON THE SAID LIST.

EACH DELIVERY OF MATERIAL SHALL BE ACCOMPANIED BY: -  
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(1) A CERTIFICATE OF ORIGIN COUNTERSIGNED THE CHAMBER OF COMMERCE IN THE COUNTRY OF ORIGIN. THE CERTIFICATE SHALL ALSO BE COUNTERSIGNED AND LEGALIZED BY THE NEAREST UAE EMBASSY. IN COUNTRIES WHERE UAE HAVE NO DIPLOMATIC REPRESENTATION, COUNTER-SIGNATURE AND LEGALIZATION BY ANY OTHER ARAB EMBASSY SHALL BE ACCEPTED.

(2) IN ADDITION TO (1) ABOVE, MANUFACTURES IN THE FEDERAL REPUBLIC OF GERMANY SHALL STATE IN THEIR INVOICES THAT THEIR PRODUCTS DO NOT FORM PART OF GERMAN COMPENSATIONS TO ISRAEL.

THE INTERPRETATION, ADMINISTRATION, IMPLEMENTATION AND ENFORCEMENT OF THIS PROVISION SHALL BE UNDER THE SOLE AND EXCLUSIVE DIRECTION OF THE GOVERNMENT OF ABU DHABI ACTING BY AND THROUGH BUYER.

-- B. BUYER SHALL INTERPRET, ADMINISTER, IMPLEMENT AND ENFORCE THE OBSERVANCE OF THE LAWS OF ABU DHABI WITH REPECT TO THE BOYCOTT OF ISRAEL DIRECTLY WITH

SELLER; AND CONTRACTOR SHALL HAVE NO AUTHORITY OR POWER TO ACT IN ANY MANNER TO INTERPRET, ADMINISTER, IMPLEMENT OR ENFORCE SAID LAWS EITHER AGAINST SELLER, ITS SUB-COMTRACTORS, AGENTS, EMPLOYEES OR OTHERS.

END QUOTE

3. I HAVE APPOINTMENT WITH ADNOC GENERAL MANAGER KROUHA AT 8:30 A.M. LOCAL THURSDAY FEBRUARY 16 TO DISCUSS THESE REVISED CONDITIONS AND EXPLAIN THIS LANGUAGE UNACCEPTABLE. I PLAN TO POINT OUT TO KROUHA THAT NO U.S. FIRM CAN AGREE TO ANY CONDITION THAT WOULD IMPLY DISCRIMINATION AGAINST ANOTHER U.S. FIRM IN U.S. DOMESTIC OR INTERNATIONAL TRADE. NOT LIMITED OFFICIAL USE

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ONLY IS IT VIOLATION OF EXPORT ADMINISTRATION ACT BUT ALSO OF U.S. ANTI-TRUST LEGISLATION: PENALTIES COULD ALSO BE ASSESSED UNDER CURRENT TAX LAWS. I PLAN TO EMPHASIZE THAT IT IS JUST THIS TYPE OF LANGUAGE THAT CAUSED CONGRESS TO ACT TO PASS STRICT ANTI-BOYCOTT LEGISLATION TO PROTECT AMERICAN COMPANIES FROM BEING DISCRIMINATED AGAINST BY OTHER AMERICAN COMPANIES.

4. SINCE KROUHA MAY WELL ASK ME WHAT KIND OF SPECIAL CONDITIONS DO WE BELIEVE WOULD BE ACCEPTABLE TO MANY U.S. COMPANIES BIDDING ON ADNOC PROJECTS AT RUWAIS AND ELSEWHERE, I WOULD LIKE TO PROVIDE HIM WITH ILLUSTRATIVE LANGUAGE ACCEPTABLE TO U.S. RATHER THAN MERELY GIVE HIM A COPY OF U.S. ANTI-BOYCOTT REGULATIONS AND LET ADNOC LAWYERS FEND FOR THEM-

SELVES. I DOUBT ADNOC LEGAL STAFF TECHNICALLY COMPETENT UNDERSTAND OR INTERPRET EAA REGULATIONS NOR DO THEY HAVE ANY PARTICULAR INCENTIVE TO DO SO IF SIMILAR GOODS AND SERVICES CAN BE OBTAINED FROM NON-U.S. SOURCES WITHOUT FURTHER MODIFICATION ADNOC SPECIAL CONDITIONS. WHILE I REALIZE EMBASSY SHOULD NOT GET INTO NEGOTIATING POSITION ON BOYCOTT LANGUAGE, THERE ARE NOW LARGE NUMBER OF U.S. COMPANIES BIDDING FOR VARIOUS CONTRACTS OR SUPPLY OF DIFFERENT GOODS AND SERVICES FOR ADNOC'S MAMMOTH RUWAIS PROJECT AND MANY HUNDREDS OF MILLIONS OF DOLLARS ARE AT STAKE. AT MOMENT, EACH AMERICAN COMPANY IS OPERATING INDEPENDENTLY IN SEEKING ADVICE FROM EMBASSY AS WELL AS FROM ITS WON LAWYERS AT HOME.

5. THEREFORE, WOULD LIKE SUGGEST THAT WE GIVE KROUHA A STATEMENT ALONG FOLLOWING LINES WHICH CONFORMS WITH LIMITED OFFICIAL USE

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ABU DHABI BOYCOTT INSTRUCTION ISSUED LAST YEAR  
(77 ABU DHABI 1123) AND DOES NOT IMPUGN UAE  
APPLICATION OF PRIMARY BOYCOTT AGAINST ISRAEL.

-- A. THE GOVERNMENT OF ABU DHABI ACTING BY AND  
THROUGH THE BUYER REQUIRES OBSERVANCE OF THE LAWS OF  
ABU DHABI WITH RESPECT TO BOYCOTT OF ISRAEL IS  
FOLLOWS:

(1) SELLER AGREES THAT IT WILL NOT FURNISH OR  
IMPORT INTO THE UAE GOODS OR SERVICES OF ISRAELI  
ORIGIN NOR WILL IT USE ISRAELI FLAG VESSELS OR  
CARRIERS.

(2) EACH DELIVERY SHALL BE ACCOMPANIED BY A  
CERTIFICATE OF ORIGIN WHICH SHALL SHOW THE NAME  
OF THE MANUFACTURER AND COUNTRY OR ORIGIN AS WELL  
AS THE ORIGIN, NATIONALITY AND PERCENTAGE OF  
FOREIGN MATERIALS IF ANY USED IN THE ABOVE MENTIONED  
DELIVERY.

(3) CERTIFICATE OF ORIGIN SHALL BE COUNTERSIGNED  
BY CHAMBER OF COMMERCE IN COUNTRY OR ORIGIN. THE  
CERTIFICATE SHALL ALSO BE COUNTERSIGNED AND LEGALIZED  
BY THE NEAREST UAE EMBASSY. IN COUNTIES WHERE THE  
UAE HAS NO DIPLOMATIC REPRESENTATION, COUNTER-  
SIGNATURE AND LEGALIZATION BY ANY OTHER ARAB EMBASSY  
SHALL BE ACCEPTED.

THE INTERPRETATION, ADMINISTRATION, IMPLEMENTATION  
AND ENFORCEMENT OF THE OBSERVANCE OF THIS PROVISION  
SHALL BE UNDER THE SOLE AND EXCLUSIVE DIRECTION OF  
THE GOVERNMENT OF ABU DHABI ACTING BY AND THROUGH  
THE BUYER. END QUOTE.

6. WE UNCERTAIN WHETHER PRESS FOR ELIMINATION OR  
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MODIFICATION OF PARAGRAPHS A(1) AND B IN CURRENT  
ADNOC SPECIAL CONDITONS. CLAUSE THAT PRODUCTS  
MANUFACTURED IN FRG ARE NOT PART OF GERMAN REPARATIONS  
FOR ISRAEL IS STANDARD LANGUAGE FOR ALL CONTRACTORS  
AND SUPPLERS WHETHER GERMAN OR NOT. NOT CLEAR  
TO US THAT IT RELATES TO U.S. COMMERCE. WOULD  
ACCEPTANCE BY AMERICAN CONTRACTOR OF SUCH LANGUAGE

CONSTITUTE VIOLATION OF EXPORT ADMINISTRATION ACT?  
WE ALSO UNCERTAIN ABOUT PARA (B) WHICH APPEARS  
TO REITERATE CONDITIONS IN PRECEDING SENTENCE. WE  
INTEND TO POINT OUT THAT PARA (B) IS VAGUE AND  
AMERICAN CONTRACTOR CANNOT LEGALLY PLEDGE TO VIOLATE  
LAWS OF U.S. IF THIS IS INTENT OF PARAGRAPH. HOWEVER,  
WOULD WELCOME DEPARTMENT'S VIEWS WHETHER THIS CLAUSE  
AS WORDED WOULD GIVE ANY PROBLEMS UNDER OUR ANTI-  
BOYCOTT REGULATIONS.

7. ACTION REQUESTED: WOULD APPRECIATE ADDRESSEES'  
REACTION TO OUR PROPOSAL TO GIVE ADNOC GENERAL  
MANAGER ILLUSTRATIVE LANGUAGE FOR SPECIAL CONDITONS  
THAT WOULD PERMIT U.S. COMPANIES TO SUBMIT PROPOSALS  
FOR SUPPLY GOODS AND SERVICES FOR RUWAIS PROJECT.  
TO BE USEFUL WE WILL NEED HAVE AT LEAST PRELIMINARY  
REACTIONS BY COB WASHINGTON TIME FEBRUARY 15 VIA  
NIACT CABLE. DICKMAN UNQUOTE VANCE

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** BOYCOTTS, TRANSACTION CHECKS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 09 mar 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Original Handling Restrictions:** n/a  
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**Review Content Flags:**  
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**TAGS:** ETRD, TC, ADNOC  
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**Type:** TE  
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